

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CRIMINAL ACTION NO.
VS.)	3:04-CR-240-G
HOLY LAND FOUNDATION FOR)	
RELIEF AND DEVELOPMENT (01),)	ECF
SHUKRI ABU BAKER (02),)	
MOHAMMAD EL-MEZAIN (03),)	
GHASSAN ELASHI (04),)	
MUFID ABDULQADER (07), and)	
ABDULRAHAM ODEH (08),)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

Before the court is the motion of the defendants, the Holy Land Foundation for Relief and Development (“the HLF”), Shukri Abu Baker (“Baker”), Mohammad El-Mezain (“El-Mezain”), Ghassan Elashi (“Elashi”), Mufid Abdulqader (“Abdulqader”) and Abdulrahman Odeh (“Odeh”) (collectively, “the defendants”), for disclosure of grand and petit jury data.

A defendant in a criminal case has a statutory right to obtain information concerning the process used to select the grand and petit jurors in his case if he intends to use that information to prepare a motion to dismiss the indictment or stay the proceedings for failure to comply with proper jury selection procedures.

28 U.S.C. § 1867(a), (f). The United States Supreme Court has found that “an unqualified right to inspection [of jury selection information] is required not only by the plain text of the statute, but also by the statute’s overall purpose of insuring ‘grand and petit juries selected at random from a fair cross section of the community.’” *Test v. United States*, 420 U.S. 28, 30 (1975) (per curiam). However, courts have found that defendants are not entitled to know the full names or addresses of specific jurors on the master jury list. See *United States v. Harvey*, 756 F.2d 636, 643 (8th Cir.), *cert. denied*, 474 U.S. 831 (1985).

The defendants in this case seek information regarding the grand and petit jury selection process “to substantiate their belief that Arabs, Muslims and members of other minority groups were underrepresented in the grand jury venire, and are likely to be underrepresented in their petit jury venire.” Defendants’ Joint Motion for Disclosure of Grand and Petit Jury Data and Incorporated Memorandum (“Defendants’ Motion”) at 2. To the extent the information sought by the defendants is necessary to support their theory, their motion is granted; however,

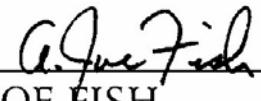
many of the defendants' specific requests seek information to which they are not entitled. Therefore, the defendants may receive the following:

1. all information regarding the procedures and data bases used to create the grand jury panel in this case;
2. all statistical data regarding the race, ethnicity or gender of jurors who were deemed unqualified for service on the grand jury and the reason for their disqualification;
3. all statistical data regarding the race, ethnicity or gender of jurors who were deemed qualified for service on the grand jury;
4. a list of the surnames of every individual in the master jury wheel and any statistical analysis of race, ethnicity, and gender;
5. a list of the surnames of every individual in the qualified jury wheel and any statistical analysis of race, ethnicity, and gender;
6. a list of the surnames of every individual summoned for the grand jury in this case;
7. a list of the surnames of every individual who failed to appear for grand jury selection;
8. a list of the surnames of every individual who was excused from service on the grand jury and the reason for the excusal;
9. a list of the surnames of every individual who was disqualified from service on the grand jury and the reason for the disqualification.

The defendants also seek information regarding the individuals who will be summoned for the petit jury in this case. When that information is available, the defendants shall receive a list of the surnames of every individual summoned for the petit jury and of those who fail to appear for petit jury selection. Because the defendants will be present during the petit jury voir dire, they can make their own lists, when that time comes, of individuals who are excused or disqualified from serving on the petit jury.

SO ORDERED.

May 15, 2007.


A. JOE FISH
CHIEF JUDGE